

REMARKS

In the outstanding Office action, the Examiner has issued a restriction requirement regarding the following allegedly patentably distinct species of the claimed invention:

- A. a mixed oxide;
- B. SiAlON (e.g., claim 7);
- C. a mixed oxide including at least three constituents doped with metalloid...components (e.g., claim 13); and
- D. oxyfluoride or oxynitride compositions (e.g., claim 25).

Applicant hereby elects species A, namely, the invention involving the use of a mixed oxide, for further prosecution, with traverse.

Claims readable on this elected species include claims 1-6, 8-24 and 26-31.

This restriction requirement is traversed as follows.

This restriction requirement is flawed for several reasons.

Different species are defined to be mutually exclusive. Different species cannot be overlapping. See the MPEP, 806.04(f).

However, obviously, SiAlON is an oxynitride. Therefore, species B as identified by the Examiner actually falls within species D identified by the Examiner.

Further, mixed oxide is not mutually exclusive with "mixed oxide including at least three constituents doped with metalloid, transitional metals, alkali, alkaline earth, or rare earth components." Rather, they overlap. Therefore, the species A and C as identified by the Examiner are not mutually exclusive.

Therefore, Applicant respectfully requests that, in the next Office action, the Examiner withdraw the outstanding species restriction requirement, and proceed with the examination of all claims 1-31.

Applicant believes that no extension of time is necessary to make this Response timely. Should Applicant be in error, Applicant respectfully requests that the Office grant such time extension pursuant to 37 C.F.R. § 1.136(a) as necessary to make this Response timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 03-3325.

The undersigned attorney is granted limited recognition by the Office of Discipline and Enrollment of the USPTO to practice before the USPTO in capacity as an employee of

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Corning Incorporated. A copy of the document granting such limited recognition either has been previously submitted or is being submitted herewith for the record.

Please direct any questions or comments to the undersigned at (607) 248-1253.

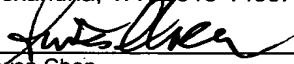
Respectfully submitted,

CORNING INCORPORATED


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Date: January 21, 2005

Date of Deposit: January 21, 2005
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date indicated above with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Siwen Chen